IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2927 OF 2004

IN

SUIT NO.2725 OF 2004

...

Qari Mohammed Zakir Hussain
and ors. ...Plaintiffs

v/s.

Municipal Corporation of
Gr.Bombay and ors. ...Defendants

...

Mr.Y.S.Jahagirdar i/b Aparna Murlidharan for the Plaintiffs.
Mr.More, AGP for the State.

Mr.A.R.Mishra for Defendant No.8.

Mr.Bharat Choudhari for Defendants Nos. 5 to 7.

Mr.K.N.Gaikwad for Defendant No.1.

Mr.A.P.Fonibinda i/b Utangale & Co. for Defendants Nos. 2 & 3.

CORAM: D.K.DESHMUKH, J.

DATED: 3RD MARCH,2005

P.C.:

1. This Notice of Motion is taken out by the Plaintiffs. The Plaintiffs in the suit challenge allotment of land to Defendants Nos. 5 to 7, which was in the year 1996. Initially the Plaintiffs had filed a suit in the city civil court in the year 2000 seeking the same reliefs which are sought in this suit. Ultimately the city civil court held that it has no jurisdiction to entertain the suit and therefore the present suit has been filed. Admitted position is that during the pendency of the proceedings before the city civil court there was no interim order made by the court which was operating. Obviously, therefore, development on the land must

have taken place and third party rights must also have been created. As interim order has not been operating since 1996, in my opinion, it will not be appropriate to grant any interim relief at this stage.

2. The learned Counsel appearing for the Defendants Nos. 5 to 7 states that the Defendants Nos. 5 to 7 have carried out construction of 7 buildings and presently 8th building is under construction. He states that Defendants Nos. 5 to 7 do not intend to take up any further construction, after completion of construction of the 8th building.

3. In my opinion, therefore, following order would meet the ends of justice.

O R D E R

Motion disposed of with liberty to the Plaintiffs to take out fresh notice of motion for the same relief, in case the Defendants Nos.5 to 7 take up construction of any more building apart from 8th building.

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